88-765

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

No. A-160

THANH VONG HOAI

Petitioner,

v.

THANH VAN VO; THACH DUY NGUYEN; MY-LINH D. SOLAND; NGUYEN THI BACH LUU; THANH VAN VO, d/b/a SUNTECH SUNOCO, INC.;AND MICHAEL ARIF,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS (FOURTH CIRCUIT)

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QUESTIONS PRESENTED

1. Can separate criminal acts, more than two in number, where many are even different crimes, be held to be not a "pattern of racketeering activity" without violating this Court's use of the standard of 18 U.S.C. 3575(e) in Sedima. S.P.R.L. v. Imrex Co. 473 US 479 (1985) and the better case law where there is a split between the decisions in this case below and those in other circuits ?

2. Where allegations showing a de facto "enterprise" in a RICO claim are such that substantially they "coalesce" with the allegations tending to show the "pattern of racketeering activity" as noted as may happen by this Court in United States v. Turkette 452 US 576 (1981) and the allegations that thus substantially coalesce provide the primary showing in the complaint of both

separate things, may the lower court dismiss the complaint nonetheless for failure to show both an "enterprise" and a "pattern of racketeering activity" ?

3. May the enterprise requirement of 18 U.S.C. 1962 (c) be imposed upon 18 U.S.C. 1962 (a) and (b) ?

4. May lower court judges use requirements of showing of "enterprise" and "pattern of racketeering activity" post Sedima in a manner not contemplated by Congress in the same way that they used a requirement of "racketeering injury" prior to this Court's decision in Sedima ?

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STATUTES

RICO SERIATIM

PREDICATE ACT STATUTES 1

I. No reports of the opinions below.

II. GROUNDS ON WHICH THE JURISDICTION OF THE COURT IS INVOKED:

(i) DATE OF JUDGMENT OR DECREE:

May 19, 1988, entered the same day.

(ii) DATE OF ORDER DENYING REHEARING AND DATE OF ORDER GRANTING EXTENSION OF TIME IN WHICH TO PETITION FOR CERTIORARI:

Order denying rehearing filed June 14, 1988. Order granting extension of time in which to petition signed by the Chief Justice August 24, 1988.

(iv) 28 U.S.C. 1254(1).

III. STATUTES WHICH THE CASE INVOLVES:

The RICO statute, 18 U.S.C. 1961 et seq.; "predicate act" statutes under RICO: 18 U. S.C. 1341, 1343, 1503, 1951, 1952; Va. and D.C. statutes regarding threats of murder and extortion: D.C. Code Secs. 22-2401, 2403, 2404 and 3851, Va. Code Secs. 18.2-30 through 18.2-32 and 18.2-59, 18.2-60.

IV. STATEMENT OF THE CASE

This is a case brought by the petitioner as plaintiff under the RICO statute, 28 U.S.C., et seq. In many ways the allegations of his complaint, including a lengthy affidavit incorporated into it by reference (See appendix II and supplemental appendix IV) and filed with it comprise the very essence of that statute and the intent of Congress in drafting it. Petitioner was threatened with murder, both in D.C. and Virginia, on several occasions, (See app. II, supp. IV, paras. 14, 113-114, 125-126, 448-449, 580, 649 and was extorted out of two business interests by various frauds and then, as he began to question these deceits and ask the defendants to honor their commitments where necessary to the continuation of the businesses and, ultimately, with regard to the one

businss, a Sunoco station, to sell out their ostensible interest as a lender and those working with him, and leave it in his hands alone, the threats of murder commenced and did not let up until he was stripped of both business interests.

The Sunoco station was a franchise that petitioner had just received after applying for it with the knowledge of the defendants (though he only told three of them about and did not know they were working together in the manner he alleges until later), though he has a record of work in services stations and related businesses, beginning as a trainee in 1976 and moving up through station manager, area manager, independent dealer of smaller stations, including a prior Sunoco dealership, and then just beginning the station dealership involved here, a large and much more profitable

one, at least potentially, and a major turning point in this career. For even though the station had problems such as pilferage and was in a "tough" neighborhood, it was on a major traffic artery, had a large potential customer base in the passing traffic and a location also that made it suitable for extensive sales of mechanical services and a convenience store.

Using the pretense of a friendly and non-onerous loan between Vietnamese businessmen, one of the defendants induced plaintiff-petitioner to let him help with the start-up of this large gas station franchise by a "soft" loan to be paid back when the station was up and runnng profitably after a year or so, at which time, if principal could not be paid back and had to be delayed further, interest would be paid at ten percent.

When this offer was accepted by plaintiff-petitioner, who had about half the approximately $70,000.00 in capital he had been told by Sunoco he would need through his family, this particular defendant who promised this loan, one Thanh Vanh Vo, insisted, after agreeing to set up the new station's bank account in order to help out, that he, Vo, would control the bank account and be its only signator and, moreover, he refused to let plaintiff see the account statements or records, all as "security" for his "loan." This defendant Vo took the newly opened stations proceeds and deposited them in this account of the station which only he had access to. He claimed to the plaintiff-petitioner that he had made the "loan" he had promised by depositing the $35,000.00 in question into the station account. Plaintiff-petitioner thus never

saw any evidence that the promised loan had ever been made and as a result of subsequent events which he alleges, came to realize that the "loan" never existed and that, at the very least, the most that was ever put into the bank account by Vo was a few thousand dollars to "salt" it and lead plaintiff on.

When plaintiff-petitioner was faced with the return of the first large check drawn on the station account as thus controlled by the man Vo, a check to Sunoco for gasoline, for insufficient funds, he realized that something was wrong and began to question the man Vo and another man, Thach, and demand that they show him what they had put into the gas station in the way of actual loans and inventory and he, the plaintiff-petitioner Hoai, would get other money and buy them out by repaying what they

had put in.

The response was exaggerated claims of hundreds of thousands of dollars invested in the station which had to be repaid by plaintiff Hoai, these two defendants insisted, accompanied by threats of murder and mayhem upon the person of Hoai if he did not immediately pay these extortionate sums or, in the alternative, plaintiff-petitioner could sell the franchise to Vo for one dollar.

Eventually plaintiff-petitioner was compelled by threats of murder and mayhem to sign a document turning over the station to Vo for one dollar, a document which plaintiff believed then, and believes now to be illegal, not only because exacted under threats of murder, but also because in violation of applicable statutes and the franchise agreement, all of which required the

notification of Sunoco 90 days in advance of any possible transfer and the checking out of the business experience and creditworthiness of the intended transferee.

After the compulsory signing of this document under duress, plaintiff-petitioner was within weeks forced by threats of violence and murder to cease coming to his gas station franchise altogether and to de facto turn it over to the man Vo and never go there.

In the meantime, from the time plaintiff-petitioner was applying for the franchise on, unbeknownst to plaintiff-petitioner at first, the man Vo was working with the man Thach behind the scenes and at one point during these developments Thach was introduced to petitioner Hoai as a banker, in fact as the President and owner of the McLean

Bank of McLean, Virginia, the same bank where Vo had placed the gas station account into which he claimed to be depositing the station proceeds and "securing" them under his signature as the only person with access to the account.

But, however, at the same time also, defendant Thach was working with the other two principal defendants of the "core" group of four comprising the de facto enterprise in question, the man and wife, defendants Minh and Luu, in a scheme designed to simultaneously deprive plaintiff Hoai of the capital available to him through his family, eventually some $49,000.00 which was lost to the defendants. This was accoplished in this way: Minh and Luu approached petitioner and petitioner's wife and induced them, after much persuasion to overcome the

reluctance of the petitioner and his wife to be involved in too many things at once, to purchase an oriental specialty food store business in the form of the right to occupy and sell in a business location for a number of such ethnic businesses controlled by Minh and Luu in the Vietnamese "strip" in Arlington, Virginia. It was during these discussions and the fruitless attempts of petitioner to obtain the promised lease for this business location that the defendant Thach was introduced to petitioner and his wife as the "banker" who was going to lend them the money to, in American terms, "bootstrap" the purchase of the grocery store business so that the capital would not be tied up for so long as to make it difficult to get the gas station business going and the food business would soon produce daily

revenues that could be used to expand the gas station business. The defendant Vo was told by plaintiff-petitioner of the purchase of the food business and encouraged plaintiff-petitioner to go ahead and purchase and operate it to get money flowing. Unbeknownst to plaintiff-petitioner all four of these core defendants were working together to drain off his capital, get control of it and take both businesses for their own gain. This was accomplished as follows: When petitioner Hoai and his wife took over the food store business they discovered that the inventory, contrary to representations, was unfit for human consumption and that the credit of the defendants Minh and Luu with the oriental food wholesalers, contrary also to representations, was negative, with many, many long unpaid bills. Therefore, as

schemingly anticipated by defendants, plaintiff and his wife were compelled by economic necessity to put their capital into new inventory to get the food store business going.

After plaintiff and his wife for several months had built up this business and invested over $49,000.00 in it in inventory and the like, defendants, again by the direct and indirect, subtle and obvious, use of threats of murder and violence, took back the business, breaking the locks and seizing the inventory, and sold the inventory off for their own profit and then "resold" the business to third parties.

Plaintiff-petitioner Hoai detailed this entire complex scheme, including the several threats of murder, in a lengthy complaint accompanied by a detailed affidavit which was incorporated into the

complaint. In the words of this Court in United States v. Turkette 452 US 576 (1981) "the proof used to establish these separate elements ["enterprise" and "pattern of racketeering injury"] may in particular cases coalesce." Here they did so "coalesce", as this Court said they might and plaintiff addressed the question in his complaint in the district court by a lengthy and detailed complaint accompanied by a lengthier affidavit showing just how the proof of what he had been through at the hands of the defendants showed both an enterprise and a pattern of racketeering activity on their part.

In addition the complaint and affidavit set out the other instances that defendants had told plaintiff about or that he had observed, of similar types of racketeering activity by the defendants

in their various subgroups. See App. II. and Supp. App. IV. paras. 129-139, 205-8, 216, 232, 531. The other defendants were included as having assisted the core group of four in their pattern of racketeering activity. For each "secondary" defendant a separate count or section of allegations was included in the original complaint.

In terms of the standard set out in the eleventh circuit in United States v. Watchmaker 761 F2d 1459 (1985) at 1475, of

> whether each act constitutes "a separate violation of the [state or federal] statute" governing the conduct in question. United States v. Phillips, supra, 664 F.2d at 1039. See also United States v. Licavoli, 725 F.2d 1040 (6th Cir.), cert denied, sub nom. Calandra v. United States, ____ U.S.____, 104 S.Ct. 3535, 82 L.Ed.2d 840 (1984) (same standard). (brackets in original. The full cite of Phillips is 664 F.2d 971 (1981).)

plaintiff-petitioner alleged well over the required two predicate acts, whether one considers the fully fleshed out allegations of his original complaint or the sparse summary demanded by the court below as stated in his amended complaint. We have already cited above those allegations of threats of murder, summarized sparsely ultimately in the amended complaint demanded by the lower court.

In addition there were the following (paras. in App. II and Supp. App. IV): threats of extortion and extortion: 393-396, 448-449, 473-475, 546, 549-550, 580, 113-114, 649, 125-126. Extortionate credit transactions: 462-470. Mail fraud: Soland allegations. Wire fraud: 387-392; 217-220, 564-568 and many others where there were phone calls back and forth between the station in D.C. and the

food store and the homes in Virginia. Also the takeover of the station and extortion of it and then the takeover of the food store business and inventory were acts of interference with commerce. Paras. 181, 647-659.

Plaintiff-petitioner Hoai filed his complaint on March 25, 1987, in the Eastern District of Virginia, Alexandria Division. All defendants save defendant My-Linh Soland and the anonymously named John Doe defendants, the "Cowboys", answered. But when defendant Soland moved to dismiss based largely on Rule 8 allegations relating to the length of the complaint, the others followed suit despite having already answered.

The dismissal motions were answered and then came on for hearing before the Honorable Claude Hilton on May 8, 1987. After briefly listening to arguments from

both sides Judge Hilton indicated that in these RICO complaints his attention span flagged after 35 pages and indicated also that he thought the wrongs alleged were all one scheme and that there might be a problem with showing the necessary "pattern" of racketeering activity. He dismissed with leave to file a new complaint. No separate opinion was filed by the lower court, only a reference to the reasons given from the bench.

The new complaint was refiled May 22, 1987, and again was met with dismissal motions, this time without any answering. It was a sparse complaint, with all of the prior allegations highly summarized, almost to the point of sterility. The abundance of detail previously provided was necessarily eliminated and the pages came down to almost the 35 clearly signalled by the judge as what he wanted

to see.

On July 2, 1987, the second set of dismissal motion, those addressed to the sparse, amended complaint, came on before Judge Hilton and he again listened briefly to arguments of counsel, then he dismissed, stating from the bench that plaintiff had shown no "enterprise" and no pattern of racketeering activity inasmuch as the scheme was all one scheme, in which plaintiff set out to buy two businesses and got defrauded of his money, thus setting the scene for the ensuing appeal to the fourth circuit and the present petition, addressed solely to the questions of "enterprise" and "pattern of racketeering activity." The Fourth Circuit affirmed, after briefing and oral argument, without adding much additional comment and then denied the subsequent petition for rehearing, which

incorporated also dramatic new evidence in that one of the core defendants, Luu, had contacted petitioner and one of his counsel, John D. Hemenway, and had admitted, in a tape recorded session, the existence of the enterprise and had filled in additional details, theretofore unknown to plaintiff-petitioner, of the pattern of racketeering activity.[1]

V. ARGUMENT

The facts of this case are really quite incredible. Plaintiff-petitioner has alleged in his complaint a series of events and transactions embracing over a dozen identifiable predicate acts as defined in the statute and yet the lower courts have told him that he has alleged

[1]It is also worthy of note that defendant Soland, while the matter was still pending before the eastern district, before the dismissal, attempted to forge and alter evidence, leading to a motion to produce and seal by the plaintiff and augmentation of his then pending complaint against her before the bar.

no pattern of racketeering activity. He has alleged clearly a de facto grouping of individuals who not only engaged in such predicate acts with relation to him but, on their own say so, had engaged in such acts with relation to others. This is precisely the kind of wrongful activity for which the statute is intended to provide civil as well as criminal remedies. It would be harder to find a clearer example of the kind of behavior the Congress was aiming at in passing RICO. Indeed, two of the defendants here boasted to the plaintiff of their forming of a Vietnamese version of the Mafia, a practice at which the statute was specifically aimed.

Nonetheless, practically without comment the Honorable judge of the Eastern District of Virginia dismissed petitioner Hoai's complaint and the 4th

Circuit affirmed. Clearly there is a split in the circuits here and just as evidently, there is an attempt here to erect a standard not in the statute in order to eliminate cases that is not in accord with the intent of Congress in the same manner as the concept of "racketeering injury" was being used before this Court struck it down in Sedima, S.P.R.L. v. Imrex Co. 473 US 479 (1985). This is a particularly dangerous unwarranted standard, worse than that struck down in Sedima with regard to the "pattern" requirement, because, as this case illustrates, it allows a lower court to dismiss precisely that complaint which alleges activities fitting the pattern Congress had in mind while it would require the trial of much of the famous "garden variety" fraud which has plagued the execution of the statute in practice.

For it is precisely those who aspire to the organization and style of the Mafia who carry out single schemes through multiple indictable offenses or the threat of such offenses as here with the threats of murder on several occasions.

The problem is the same here with regard to the finding of no enterprise. Do we have to wait until there is a board of directors in some U.S. city uniting all the Vietnamese "little Mafias" before the Act is applicable. We scarcely think so. Indeed if the purpose of RICO is to be effected then it would seem extremely important that it be usable by those victimized by aspiring criminal groups before they reach their goal of mafia-style predominance not after.

The existence of a split in the circuits here on the question of "pattern of racketeering activity" is evident in

light of the case bound over from the Court's last term, Hobson v. U.S. docket no. 87-1051, reported below as United States v. Hobson 825 F2d 364 (CA 11 1987), in which the lead question before this court is that of pattern of racketeering activity, and a pair of cases (if newspaper accounts are to be believed) argued before this Court on October 3 of this year involving the Indiana RICO act which is patterned after the federal, Ft. Wayne Books v. Indiana and Sappenfield v. Indiana 87-470 and 87-614 respectively. Reported below, respectively, at 504 NE2d 559, 55 LW 2531 and 505 NE2d 504.

If we look at how the question is treated in Hobson we see the enormous split between a number of the circuits and the 4th as it treated petitioner's case on the question of pattern of

racketeering injury. In Hobson the 11th Circuit clearly enunciated its rule, at note 2, p. 366, id. as "that two separate crimes clearly constitute two separate acts for purposes of RICO. See Bank of America v. Touche Ross & Co., 782 F2d 966, 971 (11th Cir.1986)." In Touche Ross the 11th circuit considered its rule in light of the comments of this Court in deciding Sedima, supra, and commented as follows:

> Defendants urge this court to adopt a rule under which the predicate acts of must occur in different criminal episodes in order to satisfy the pattern requirement. In this case all the alleged acts of wire and mail fraud were part of a single scheme. Defendants' interpretation, however, not only ignores the language of Sec. 3575(e) quoted by the Sedima Court but also contradicts the rule of this circuit. Acts that are part of the same scheme or transaction can qualify as distinct predicate acts.
>
> The standard which has been applied in this Circuit is whether each act constitutes

> "a separate violation of the [state or federal] statute governing the conduct in question.... If distinct statutory violations are found, the predicate acts will be considered to be distinct irrespective of the circumstances under which they arose.

U.S. v. Watchmaker, 761 F.2d at 1475.

Indeed, as the Touche Ross opinion pointed out this Court quoted from 18 U.S.C. Sec. 3575(3) in its Sedima opinion, a section which defines "criminal conduct" as "form[ing] a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events. (emphasis added) Sedima, supra 105 S.Ct. at 3285, n. 14. Hence the very thing that the judge below in this case

used to dismiss the case, the interconnectedness of the scheme perpetrated against plaintiff, is actually what defines the pattern of racketeering activity as existing. It is definitely not a rationale for declaring that the required pattern of racketeering activity does not exist, which is what was held below. The decisions below turn this statute from its meaning by 180 degrees on this point.

Since the courts below do not articulate their reasoning, it is hard to tell, but if the shortness of time encompassed by the speed with which the defendants accomplished their aim of defrauding plaintiff-petitioner here is of concern that to is answered in Watchmaker at 1475:

> As the government notes most courts have rejected the claim that predicate acts which are proximate in time do not demonstrate the

"continuity" necessary for proof of a RICO offense. See United States v. Parness, 503 F.2d 430 (2d Cir.1974), cert. denied, 419 U.S. 1105, 95 S.Ct. 775, 42 L.Ed.2d 801 (1975)(two acts of interstate transportation of stolen property five days apart sufficient to establish RICO violation; United States v. Moeller, 402 F.Supp. 49, 57-58 (D.Conn.1975)(one act of arson and one act of kidnapping on same day sufficient to establish RICO violation).

The court then went on to address the "same scheme" rationale used here by Judge Hilton in dismissing plaintiff's case:

Courts have also rejected the argument that acts which are part of the same scheme or transaction cannot qualify as distinct predicate acts. See United States v. Phillips, supra, 664 F.2d at 1038-39 (describing case in which several mailings in course of single mail fraud constituted separate acts and case in which single arson constituted multiple predicate acts because of violation of mail fraud and interstate travel laws in course of planning and executing arson).

In Phillips at the place cited the 11th circuit in turn relied upon two 7th circuit cases: United States v. Starnes, 644 F.2d 673, 677-78 (1981), and United States v. Weatherspoon, 581 F.2d 595, 601-02 (1978), for the proposition that multiple acts in furtherance of a single scheme of arson or fraud, and particularly of fraud against a single individual, establish the required pattern of racketeering activity.

So not only is there a split in the circuits on this point, there is a large gap. For in this case the judge in the Eastern District used the same rationale which other circuits say shows the requisite pattern of racketeering activity and used it as a rationale for saying that there was no pattern of racketeering activity.

When we turn to the other of the two reasons given for the dismissal as upheld in the circuit court without comment -- the failure to allege an enterprise -- we see similar error.

In the first place the dismissal, unsupported as it was by any reasoning that would inform us as to the support for the finding of lack of enterprise, ignores the fact that there are allegations in the complaint below under subsections (a) and (b) of 18 U.S.C. 1962, neither of which require the showing of enterprise that subsection (c) does.

But even if we lay that aside, plaintiff clearly has alleged a de facto enterprise. The lower courts seem to have confused the fact that the proof of the existence of that enterprise as visible to plaintiff, "coalesce[s]", to

use the word used by this Court in Turkette, supra, with the proof visible to him of the pattern of racketeering activity in many respects. But, as this Court pointed out, that does not mean that they are the same thing. Plaintiff-petitioner alleged combinations of the four main defendants in which they defrauded or wronged not only him but others. It is not of moment that much of this was based on admissions that defendants himself made to him in the course of trying to intimidate him. Most importantly, he charges their de facto enterprises with taking over his two business interests and the de facto entity of the four primary players with their secondary helpers is not and was not the same as either of those entities.

He also alleged that the gas station was an enterprise that the individual

defendants took over that was a separate entity as defendant Vo incorporated it, from them. He alleged that the two defendants, in the course of alternately cajoling him to join them and threatening his life, told him that they were like the Italian mafia. Further, under the plain wording of the definition in the statute an individual may be an enterprise and here he has alleged just that with regard to allegations of more than two predicate acts against Vo, Thach, Minh, Luu, Soland and Arif.

Taken together, the use by the lower courts here of the requirements of "pattern of racketeering activity" and "enterprise" constitutes an attempt to revive the discredited notion, struck down by this Court in Sedima, that there is some standard apart from the clear language of the statute that courts can

impose to dispose of the bulk of the RICO cases that are brought.[2] Here the improper standard being imposed is more insidious than that struck down in Sedima, as we have pointed out in that as opposed to requiring an excessive amount of racketeering activity it would seem to bar cases clearly involving racketeering activity where more disconnected activity which is not of the kind contemplated by Congress in RICO could be the subject of a suit which could go forward.

Therefore, we respectfully request that this Court grant the petitioner's request for a writ of certiorari and remand this case to the Eastern District of Virginia with findings that petitioner has shown

[2]It appears that there have been only two RICO cases in the Eastern District of Virginia that have survived dismissal. One was settled out and the other went to trial and was tried by one of the attorneys for plaintiff in this case, Mr. Paleos.

the required pattern of racketeering activity and the required enterprise and instruct that court to proceed without further delay.

Respectfully submitted.

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On the brief:
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CERTIFICATE OF SERVICE UNDER RULE 28

I hereby certify that I am a member of the bar of this Court (formerly at 2762 Woodley Place, N.W., Washington, D.C. 20008) and that I have served by United States mail, first class, postage prepaid, this 12th day of October, 1988, true and accurate copies of the foregoing Petition for the Writ of Certiorari, together with the accompanying appendices, 3 copies for each defendant separately represented, upon the following counsel of record below: Alan Yamamoto, Esquire, 9677 Main Street, Suite B, Fairfax, Virginia 22030; Alan Croft, Esquire, P.O. Box 547, Fairfax, Virginia 22030; Thomas A. Gentile, Esquire, P.O. Box 612, Arlington, Virginia 22216.

Laurence A. Elgin

RELEVANT STATUTES

The RICO STATUTES, 18 U.S.C. et seq.:

Sec. 1961. Definitions

As used in this chapter [18 USC Secs. 1961 et seq.] --

(1) "racketeering activity" means (A) any act or threat involving murder,..,robbery,.., extortion..., which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ..., sections 891-894 (relating to extortionate credit transactions),..., sectio 1341 (relating to mail fraud), sectio 1343 (relating to wire fraud), section 1503 (relating to the obstruction of justice, ..., section 1951 (relating to interference with commerce, robbery or extortion),...

Sec. 1962. Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest,directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which engages in, or the activities of which affect, interstate or foreign commerce....

(b) It shall be unlawful for any person through a pattern of racketeering activity ... to acquire or maintain,

directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity....

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a),(b), or (c) of this section.

Sec. 1964. Civil remedies

....

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.